

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PSN ILLINOIS, LLC,)	
an Illinois corporation,)	Case No. 07 C 7190
)	
Plaintiff,)	Judge Hibbler
)	
vs.)	Magistrate Judge Valdez
<hr/>		
Abcam, Inc.; Abgent, Inc.;)	
Affinity Bioreagents, Inc.;)	
Discoverx Corporation;)	
Exalpa Biologicals, Inc.;)	
Genetex, Inc.; LifeSpan Biosciences, Inc.;)	
Multispan, Inc.; and)	
Novus Biologicals, Inc.)	
)	
Defendants.)	

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

Plaintiff, PSN ILLINOIS, LLC (“PSN”) pursuant to Rule 55 of the Federal Rules of Civil Procedure, respectfully moves this Court to enter a default judgment against defendant Multispan, Inc. (“Multispan”), in the form attached hereto as Exhibit A. In support thereof, Plaintiff states as follows:

1. PSN filed its claim for patent infringement on December 21, 2007 seeking, *inter alia*, damages for past, present and future infringement of United States Patent No. 5,856,443, entitled “Molecular Cloning And Expression of G-Coupled Receptors,” issued January 5, 1999 (“the ‘443 patent”) and United States Patent No. 6,518,414B1 entitled “Molecular Cloning and Expression of G-Protein Coupled Receptors”, issued February 1, 2003 (“the ‘414 patent”) (see docket # 1, PSN Complaint, ¶ 3).

2. In its Complaint, PSN alleges that defendant Multispan has infringed claims of at least ‘443 and ‘414 patents through, amongst other activities, the manufacture, use, offer for sale, sale, and/or distribution of products and services utilizing Sphingosine 1-Phosphate Receptor 2/

aka Edg 5/ aka p^{H218} (“SIP2”) that fall within the scope of claims of these patents, including at east the following products: MultiscreenTM Stable Cell Line Human Recombinant SIP2 (Catalog # CG1051-1) (see *id* at ¶ 11) .

3. On January 29, 2008 summons was issued to Multispan to answer or otherwise respond to the allegations of PSN’s Complaint (see docket #9). Attached hereto as Exhibit B is a true and accurate copy of Affidavit of Process Server, Daniel D. Burke, Sr., demonstrating that defendant Multispan was served with Plaintiff’s Complaint on February 1, 2008.

4. PSN has engaged Multispan in settlement discussions. Four other defendants have settled. Settlement discussions continue with the remaining defendants. However, further settlement discussions with Multispan do not appear fruitful at this time. March 5, 2008, PSN’s attorneys notified Multispan that it had been in default since February 21, 2008, and that PSN was reserving the right to “pursue a default judgment and for attorney fees” (3-5-08 Mazza e-mail and previous e-mail exchanges, Exhibit C).

5. No pleading had been filed in this case on behalf of defendant Multispan. Nor has defendant Multispan provided any reason to this Court why an order of default should not be entered against it.

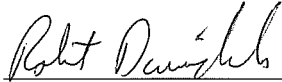
6. Accordingly, PSN respectfully requests that that default judgment be entered against defendant Multispan as set forth in the order attached hereto as Exhibit A.

WHEREFORE, PSN moves this Court to enter a default judgment against defendant Multispan in the form attached as Exhibit A and for the Court to set a date for PSN to file a motion supporting the monetary damages it has sustained, plus any further relief the Court deems equitable and just.

Dated: March 31, 2008

Respectfully submitted,

PSN ILLINOIS LLC an Illinois corporation,

By: 
One of its Attorneys

Michael P. Mazza
Dana Lauren Drexler
Michael P. Mazza, LLC.
686 Crescent Blvd
Glen Ellyn, IL 60137
Tel: 630-858-5071

Shawn M. Collins
Robert L. Dawidiuk
The Collins Law Firm
1770 N. Park Street, Suite 200
Naperville, IL 60563
Tel: 630-527-1595

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PSN ILLINOIS, LLC, an Illinois corporation,)	
)	Case No. 07 C 7190
)	
Plaintiff,)	Judge Hibbler
)	
vs.)	Magistrate Judge Valdez
)	
Abcam, Inc.; Abgent, Inc.;)	
Affinity Bioreagents, Inc.;)	
Discoverx Corporation;)	
Exalpa Biologicals, Inc.;)	
Genetex, Inc.; LifeSpan Biosciences, Inc.;)	
Multispan, Inc.; and)	
Novus Biologicals, Inc.)	
)	
Defendants.)	

ORDER

THIS CAUSE being before the Court on Plaintiff's Motion for a Default Judgment, notice being provided to defendant Multispan, Inc. and the Court being fully advised,

It is hereby Ordered:

1. Defendant Multispan, Inc. is found to be in default.
2. Judgment is entered against Multispan, Inc. per the attached Consent Judgment Order.
4. Plaintiff is ordered to file a motion to prove up its damages within 10 days.

ENTERED: _____

Judge Hibbler

Michael P. Mazza
Dana Lauren Drexler
Michael P. Mazza, LLC.
686 Crescent Blvd
Glen Ellyn, IL 60137
Tel: 630-858-5071

Shawn M. Collins
Robert L. Dawidiuk
The Collins Law Firm
1770 N. Park Street, Suite 200
Naperville, IL 60563
Tel: 630-527-1595

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PSN ILLINOIS, LLC,)	
an Illinois corporation,)	Case No. 07 C 7190
)	
Plaintiff,)	Judge Hibbler
)	
vs.)	Magistrate Judge Valdez
)	
Abcam, Inc.; Abgent, Inc.;)	
Affinity Bioreagents, Inc.;)	
Discoverx Corporation;)	
Exalpa Biologicals, Inc.;)	
Genetex, Inc.; LifeSpan Biosciences, Inc.;)	
Multispan, Inc.; and)	
Novus Biologicals, Inc.)	
)	
Defendants.)	

CONSENT JUDGMENT ORDER AS TO DEFENDANT MULTISPAN

WHEREFORE, with the consent of the Parties, through their undersigned attorneys, and with the approval of this Court, it is hereby finally ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over the parties and the subject matter of this action.
2. PSN owns and has standing to sue for infringement of United States Patent No. 5,856,443, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Jan. 5, 1999, and United States Patent No. 6,518,414B1, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Feb. 11, 2003 ("PSN's Patents").
3. Each of the claims of PSN's Patents are valid and enforceable.

4. PSN's Patents have been infringed by Multispan through its manufacture, use, sale and/or offer for sale of products and services utilizing Sphingosine 1-Phosphate Receptor 2/ aka Edg 5/ aka p^{H218} ("S1P2") that fall within the scope of claims of PSN's Patents, including at least the following Multispan products: Multiscreen™ Stable Cell Line Human Recombinant S1P2 (Catalog # CG1051-1) ("the infringing products").

5. No payment for or release of the infringing products which may have been used by any third parties is provided here or in the parties' Settlement Agreement, and PSN is free to pursue its damages claim in this action against such third parties.

6. Multispan agrees to and hereby waives and relinquishes the right to ever contest the validity or enforceability of either of PSN Patents and any of their claims in their present form, whether such assertion of invalidity or unenforceability would be made in a court proceeding or Patent Office proceeding, and whether or not such assertion is made with respect to the infringing products in this action or with respect to any other products that may be made, used, sold and/or offered for sale by Multispan in the future.

7. All claims and defenses of each of the Parties are hereby dismissed with prejudice.

8. The parties shall each bear their own costs and attorney fees incurred in this action, and the Court shall retain jurisdiction to enforce the terms of this Consent Judgment Order and the corresponding Settlement Agreement between the parties concerning this action.

Dated: _____ 2008

Honorable William J. Hibbler
United States District Court Judge

Exhibit B

Affidavit of Process Server

PSN Illinois, LLC

vs Abcam, Inc., et al.

07 C 7190

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE #

Being duly sworn, on my oath, I Daniel D. Burke, Sr.
 declare that I am a citizen of the United States, over the age of eighteen and not a party to this action.

Service: I served Multispan, Inc.
 with the (documents) ☐ Subpoena with \$ _____ witness fee and mileage
☒ Summons and Complaint

NAME OF PERSON/ENTITY BEING SERVED

witness fee and mileage

☒ Summons and Complaintby serving (NAME) Helena Mansabo, CEOat ☐ Home☒ BusinessMultispan, Inc., 26219 Eden Landing Rd., Hayward CA 94545on (DATE) 2/1/08at (TIME) 10:40am

Thereafter copies of the documents were mailed by prepaid, first class mail on (DATE) _____

from (CITY) _____

(STATE) _____

Manner of Service:☒ By Personal Service.☐ By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof,

namely _____

☐ By leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the general nature of the papers,

namely _____

☐ By posting copies in a conspicuous manner to the address of the person/entity being served.**Non-Service:** After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):☐ Unknown at Address☐ Evading☐ Other: _____☐ Address Does Not Exist☐ Service Cancelled by Litigant☐ Moved, Left no Forwarding☐ Unable to Serve in a Timely Fashion

Service Attempts: Service was attempted on: () _____ DATE TIME () _____ DATE TIME
 () _____ DATE TIME () _____ DATE TIME () _____ DATE TIME

Description:☐ Male☐ White Skin☒ Black Hair☐ White Hair☐ 14-20 Yrs.☐ Under 5'☐ Under 100 Lbs.☒ Female☐ Black Skin☐ Brown Hair☐ Balding☒ 21-35 Yrs.☐ 5'0"-5'3"☐ 100-130 Lbs.☒ Yellow Skin☐ Blond Hair☐ 36-50 Yrs.☒ 5'4"-5'8"☒ 131-160 Lbs.☐ Brown Skin☐ Gray Hair☐ Mustache☐ 51-65 Yrs.☐ 5'9"-6'0"☐ 161-200 Lbs.☐ Glasses☐ Red Skin☐ Red Hair☐ Beard☐ Over 65 Yrs.☐ Over 6'☐ Over 200 Lbs.

OTHER IDENTIFYING FEATURES: _____

State of Illinois

County of Cook

Subscribed and sworn to before me,

a notary public, this _____ day of _____, 20____

Daniel D. Burke Sr.
 SERVED BY
 LASALLE PROCESS SERVERS

NOTARY PUBLIC

See ATTACHED JURAT.

MAZZA

CHARTER MEMBER NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS.

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____
 Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on this

5th day of February, 2008 by
Date Month Year
 (1) Daniel D Burke SR
Name of Signer

proved to me on the basis of satisfactory evidence
 to be the person who appeared before me (.) (.)

(and

(2) _____
Name of Signer

proved to me on the basis of satisfactory evidence
 to be the person who appeared before me.)

Signature Marcia L Burke
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

*Though the information below is not required by law, it may prove
 valuable to persons relying on the document and could prevent
 fraudulent removal and reattachment of this form to another document.*

Further Description of Any Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here

AO 440 (Rev. 05/00) Summons in a Civil Action

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

PSN ILLINOIS, LLC, an Illinois Corporation,

Plaintiff,

CASE NUMBER: 07-C-7190

V.

ASSIGNED JUDGE: Judge Hibbler

Abcam, Inc.; Abgent, Inc.; Affinity Bioreagents, Inc.; Discoverx Corporation;
Exalpa Biologics, Inc.; Genetex, Inc.; LifeSpan Biosciences, Inc.; Multispan,
Inc.; and Novus Biologicals, Inc.,

Defendants,

DESIGNATED
MAGISTRATE JUDGE: Magistrate Judge Valdez

TO: (Name and address of Defendant)

Multispan, Inc.
26219 Eden Landing Road
Hayward, CA 94545-3718

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Michael P. Mazza, LLC
686 Crescent Boulevard
Glen Ellyn, IL 60137
(630) 858-5071

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Michael W. Dobbins, Clerk

Nadine Shirley

(By) DEPUTY CLERK

January 29, 2008

Date



AO 440 (Rev. 05/00) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

G Served personally upon the defendant. Place where served: _____

G Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: _____

G Returned unexecuted: _____

G Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

Exhibit C

Mike Mazza

From: Mike Mazza [Mazza@mazzallic.com]
Sent: Wednesday, March 05, 2008 10:32 AM
To: 'Helena Mancebo'
Cc: 'Shawn M. Collins'; 'Robert Dawidiuk'; 'Dana'
Subject: FW: PSN v MultiSpan et al.

Helena: Multispan's Answer to the Complaint was due February 21, 2007. It has been clear since early February (see your below email) that we will not be able to come to terms on settlement regarding Multispan's past infringement. Multispan has been in default since February 21. PSN is reserving all of its rights, including to pursue a default judgment and for attorney fees. Mike Mazza

From: Helena Mancebo [mailto:helena.mancebo@multispaninc.com]
Sent: Tuesday, February 05, 2008 1:41 PM
To: Mike Mazza
Cc: John MacLennan; Shawn M. Collins; Robert Dawidiuk; Dana@mazzallic.com
Subject: RE: PSN v MultiSpan et al.

Dear Mike and all:

Thank you for the information.

Considering the bandwidth it may require to reach an agreement on S1P2 at this point, Multispan will have to discontinue ANY products and services containing S1P2 target. The S1P2 cell line will be removed immediately from our catalogue online and marketing materials. The cell line is a quality new product with potential and we regret that we will have to retrieve it before we see the realization of its value.

I am attaching my previous email below. We would like to reserve the opportunity to discuss in the future when we have the resources to do so.

Please feel free to contact me if you have any further questions and concerns.

Sincerely,
Helena

Helena Mancebo, Ph.D.
President and CEO
Multispan, Inc.
26219 Eden Landing Road
Hayward, CA 94545-3718
E-mail: Helena.Mancebo@Multispaninc.com
Phone: 510.887.0817, ext 101
Cell: 510.396.5452
Fax: 510.887.0863
www.multispaninc.com

Dear Mike:

Thank you for the call and email. Multispan respects your client's IP rights to S1P2 target and would like to resolve the issue ASAP.

3/26/2008

At this point, we really do not feel that we have enough information to make the statement in your option (1) or be able to afford your option (2) as we are still operating with loss. Raising price is really not a feasible because of the overall need to reduce cost from our clients. Generally speaking, either position would really put a small privately-owned business like Multispan in jeopardy.

We will also be willing to make reference to your patent on our website as is and share 5% of our profit generated from products related to S1P2 if we can commercialize it, in good faith. This is along the lines as you mentioned in our first conversation. We will be willing to be subject to auditing and any accounting rules to calculate our profit.

Just to reiterate, unlike most peers in your list, Multispan differs by being a service company and being an integral part of the pre-IND drug discovery process of all our clients. Data and assays from Multispan directly impact our clients' decisions on which drug leads to take forward to IND. Base on that, it makes a lot of sense to me that our business falls under the Safe-Harbor protection under Merck v.s. Integra.

Additionally, our work is not only for a good cause, i.e. facilitating drug discovery toward better medicine, but also help create greater value for the drug target and ultimately greater financial benefit for your clients. For a drug discovery service company to deal with drug target licensing issues will consume significant human and financial resources that it can not afford and create lose-lose-lose situation all around. I would expect a sensible jurisdiction that will allow a service business like Multispan to continue to succeed and financially sustainable.

I hope you understand our position. I'll be happy to have a short call again this week. Looking forward resolving the issue in the near future.

Sincerely,
Helena

From: Mike Mazza [mailto:Mazza@mazzallc.com]
Sent: Monday, February 04, 2008 9:45
To: Helena Mancebo
Subject: RE: PSN v MultiSpan et al.

Helena: The Summons provides any knowledgeable attorney with enough information. We strongly suggest that you retain an attorney to prepare and file an Answer, and not try to do this yourself. Nonetheless, here is the Court's address:

Michael Dobbins, Clerk
Everett McKinley Dirksen Building
219 S. Dearborn Street
Chicago, Illinois 60604

A courtesy copy may be delivered to Judge Hibbler. The Court website is www.ilnd.uscourts.gov

Mike Mazza

From: Helena Mancebo [mailto:helena.mancebo@multispaninc.com]
Sent: Monday, February 04, 2008 11:22 AM
To: Mike Mazza
Subject: RE: PSN v MultiSpan et al.

Mike: There is no address or phone number of the court anywhere on the summons. Do you have happen to see it or have it? Thank you! Helena

3/26/2008

Helena Mancebo, Ph.D.
President and CEO
Multispan, Inc.
26219 Eden Landing Road
Hayward, CA 94545-3718
E-mail: Helena.Mancebo@Multispaninc.com
Phone: 510.887.0817, ext 101
Cell: 510.396.5452
Fax: 510.887.0863
www.multispaninc.com

From: Mike Mazza [<mailto:Mazza@mazzallc.com>]
Sent: Monday, February 04, 2008 7:30 AM
To: Helena Mancebo
Subject: RE: PSN v MultiSpan et al.

Helena: Multispan's Answer is due 20 days from the summons' service, and should be filed with the Court and also sent to me at the address listed on the attached summons, as well as below. Thanks,
Mike

From: Helena Mancebo [<mailto:helena.mancebo@multispaninc.com>]
Sent: Monday, February 04, 2008 8:36 AM
To: Mike Mazza
Cc: Dana@mazzallc.com
Subject: RE: PSN v MultiSpan et al.

Dear Mike: We did received the "summons" without some key information. Would you please provide the telephone number or address of the summons so that we can repond? Many thanks! Helena

From: Mike Mazza [<mailto:Mazza@mazzallc.com>]
Sent: Fri 2/1/2008 12:30 PM
To: Helena Mancebo
Cc: Dana@mazzallc.com
Subject: PSN v MultiSpan et al.

Helena: I received your voicemail on our general voicemail box. I'm not sure what you are referring to that you received, unless you are referring to an email that I sent you. You will shortly be served with a Summons and a copy of the Complaint. MultiSpan then has 20 days to respond via an Answer. I would suggest retaining an attorney for that. Of course, if you would prefer to settle before then along the terms I outlined, please feel free to call to discuss with me at any point. Thanks, Mike Mazza

Michael P. Mazza, LLC
686 Crescent Blvd.
Glen Ellyn, IL 60137-4281
Tel: (630) 858-5071
Fax: (630) 282-7123
Email: mazza@mazzallc.com
www.mazzalawfirm.com

3/26/2008

This email message is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please notify the sender by reply email and destroy all copies of the original message.

Page 4 of 4

Page 4 of 4

Page 4 of 4